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EXAMINER COLBERT, ELLA				
ART UNIT		PAPER NUMBER		
3696				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/419,749

Applicant(s)

DEFFLER ET AL.

Examiner

Ella Colbert

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 9-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date 1/06/09, 3/16/09, and 4/07/09.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-4, 6, and 9-22 are pending. Claim 1 has been amended in this communication filed 03/16/09 entered as Response After Non-Final Action.
2. The IDSs filed 03/16/09, 1/06/09, and 04/07/09 have been considered and entered.
3. The objections to the Specification have been overcome by Applicants' amendments and are hereby withdrawn.
5. The 35 USC 112, First Paragraph Rejection of claims 1-4, 6, and 9-22 still remains as set forth here below.
6. The 35 USC 112, Second paragraph rejection for claims 1, 2, 3, and 9 still remains as set forth here below.
7. The 35 USC 101 Rejection for claims 1, 2, 6, 10-13, and 22 is hereby withdrawn in view of Applicants' amendment to claim 1.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 3, 4, 6, 9-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1, 3, and 9 recite "a procedure not performed" which is not found in the

Specification..

Claims 9-21 do not have any mention of "a computer-readable medium encoded with logic" found in Applicants' Specification to perform the steps of claims 9-21. Claims 2, 4, 6, and 10-22 are also rejected because they depend from a rejected claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is vague and unclear in claim 1 what or who is "maintaining a predefined macro language", retrieving from the registry of keywords" and "executing the executable code". Do Applicants' mean a computer or a user is performing these steps? Claims 2, 4, 6, and 10-22 are also rejected because of their dependency from a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander Sakharov, "Macro Processing in High-Level Languages", hereafter Sakharov alone.

With respect to claim 1, Sakharov discloses, maintaining a predefined macro language

comprising a plurality of keywords and a plurality of associated commands for execution (pg. 61, line 3-pg. 63, line 5); using a parser to parse a macro language expression to identify a new keyword in the macro language expression that is not within the plurality of keywords in the predefined macro language (pg. 65, para's 1-3); using a macro processor to execute the executable code retrieved from the registry to run the extended macro command associated with the new keyword in the macro language expression without recompiling the macro language, the executable code associated with the new keyword not included in the predefined macro language and resulting in the performance of a procedure not performed by execution of the predefined macro language alone (pg. 65, para's 4-9). Sakharov failed to disclose, retrieving, from a registry of keywords and associated executable codes, an executable code associated with the new keyword identified in the macro language expression, the executable code corresponding to a procedure not performed by the execution of the predefined macro language. However, this step is well known in the art and performed at runtime and it is not a recompilation but it is a copy as many times as it (the macro) is called. There are three different types of macros, such as preprocessor, compiler, and runtime. A preprocessor macro is defined as for example, the C preprocessor is a macro processor that is used automatically by the C compiler to transform the program before actual compilation; compiler macros are defined as controlling the state of the macro with compiler command options; and a runtime macro is defined as tells the runtime intercept how to identify the construct to converted differently and how to render or convert it to the alternative result which usually results in runtime macros that are

executed by conversion code at runtime. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a registry of keywords and an associated executable code to retrieve and to execute because it is well known in the art that the C language itself has a registry of 33 keywords with the keywords being used in the source code and compiling of the macro language.

With respect to claim 2, Sakharov discloses, extending the registry of keywords and associated executable codes by inserting a new keyword representing a new extended macro command and a new executable code associated with the new keyword (pg. 60, para's 4-pg. 61, line 2).

With respect to claim 9, this independent claim is rejected on grounds corresponding to the reason given for rejected independent claim 1. Applicants' claim 9 has a computer-readable medium encoded with logic operable, when executed on a computer processor, to perform the steps of determining, based on a predetermined syntax of the macro language with steps corresponding to the method of claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be

negativated by the manner in which the invention was made.

Claims 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander Sakharov, "Macro Processing in High-Level Languages", hereafter Sakharov, (US 5,295,059) Brooks et al, hereafter Brooks, in view of (US 4,931,928) Greenfeld and further in view of M. Douglas McLroy, "Macro Instruction Extensions of Compiler language", hereafter McLroy and further in view of (US 5,737,592) Nguyen et al, hereafter Nguyen.

With respect to claims 3, Sakharov failed to disclose, a macro handler operable to maintain a predefined macro language comprising a plurality of keywords and a plurality of associated commands for execution. Brooks discloses, a macro handler operable to maintain a predefined macro language comprising a plurality of keywords and a plurality of associated commands for execution (col. 8, lines 3-50).

Sakharov failed to disclose, a parser operable to parse a macro language expression to identify a new keyword in the macro language expression that is not within the plurality of keywords in the predefined macro language. Greenfeld discloses, a parser operable to parse a macro language expression to identify a new keyword in the macro language expression that is not within the plurality of keywords in the predefined macro language (col. 8, line 1-col. 9, line 34, fig. 3 and fig. 4). Sakharov failed to disclose, a registry of keywords and associated executable codes including one or more keywords and one or more executable codes that are not included in the predefined macro language, each keyword being associated with a respective one of the executable codes, each executable code corresponding to a procedure not performed by the execution of the

predefined macro language executable code corresponding to a procedure not performed by the execution of the predefined macro language; and wherein the macro handler is further operable to receive the new keyword from the parser, retrieve, from the registry of keywords and associated executable codes, the executable code associated with the new keyword identified within the macro language expression, and execute the retrieved executable code to run the extended macro command associated with the new keyword without recompiling the macro language, the executable code associated with the new keyword not included in the performance of a procedure not performed by execution of the predefined macro language alone

Nguyen discloses, a registry of keywords and associated executable codes including one or more keywords and one or more executable codes that are not included in the predefined macro language, each keyword being associated with a respective one of the executable codes, each executable code corresponding to a procedure not performed by the execution of the predefined macro language executable code corresponding to a procedure not performed by the execution of the predefined macro language (col. 6, lines 7-14). Sakharov failed to disclose wherein the macro handler is further operable to receive the new keyword from the parser, retrieve, from the registry of keywords and associated executable codes, the executable code associated with the new keyword identified within the macro language expression, and execute the retrieved executable code to run the extended macro command associated with the new keyword without recompiling the macro language, the executable code associated with the new keyword not included in the performance of a procedure not

performed by execution of the predefined macro language alone. Brooks discloses, wherein the macro handler is further operable to receive the new keyword from the parser, retrieve, from the registry of keywords and associated executable codes, the executable code associated with the new keyword identified within the macro language expression, and execute the retrieved executable code to run the extended macro command associated with the new keyword without recompiling the macro language, the executable code associated with the new keyword not included in the performance of a procedure not performed by execution of the predefined macro language alone (col. 8, lines 3-68 and col. 9, lines 1-60). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify in Sakharov the teachings of Brooks because such a modification is well known in the art and would enhance Sakharov's extended keywords with the parser receiving the keyword first, then parsing the expression and the macro handler in response saving the previous contents of the processor registers (keywords) during execution of the main program with the user selecting the functions and submitting the macro command to run the code associated with the keywords with a prefix symbol.

With respect to claim 4, Sakharov failed to disclose, a registry of keywords and associated executable codes is operable to be extended to include one or more new executable codes, each new keyword being associated with a respective one of the new executable codes. Nguyen discloses, a keyword registry of keywords and associated executable codes is operable to be extended to include one or more new executable codes, each new keyword being associated with a respective one of the new executable

codes (col. 6, lines 7-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Sakharov the teachings of Nguyen because such a modification would allow Sakharov to have 33 keywords that can be used in the source code and for compiling the macro language.

With respect to claim 6, Sakharov discloses, wherein the executable code includes machine operable instructions (pg. 60, para's 2-7). It is inherent that a machine is involved in this process.

Claim 10. Sakharov failed to disclose, The method of Claim 1, wherein identifying the new keyword in the macro language expression comprises recognizing one or more tokens in the macro language expression, and the method further comprises determining based on the predefined macro language that each token indicates the presence of a new macro command associated with the new keyword that is not included in the predefined macro language. McLroy discloses, The method of Claim 1, wherein identifying the new keyword in the macro language expression comprises recognizing one or more tokens in the macro language expression, and the method further comprises determining based on the predefined macro language that each token indicates the presence of a new macro command associated with the new keyword that is not included in the predefined macro language (page 215, col. 2 -page 216, col. 1, 1.5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Sakharov with the teachings of McLroy because such a modification would allow Sakharov to have a macro expression with tokens and keywords.

Claims 11, 15, and 19. Sakharov failed to disclose, further comprising breaking the macro language expression down into a plurality of elements, at least one of the plurality of elements comprising a pointer to the extended macro command. McLroy discloses, further comprising breaking the macro language expression down into a plurality of elements, at least one of the plurality of elements comprising a pointer to the extended macro command (page 216, col. 2, line 1- no. 2).

Claims 12, 16, and 20. Sakharov failed to disclose, wherein the registry of keywords comprises a table of keywords and associated macro commands. Nguyen discloses a relational database with keywords and associated macro commands (col. 5, lines 1-23).

Claims 13, 17, and 21. Sakharov failed to disclose, wherein the registry of keywords comprises a database of keywords and associated macro commands. Nguyen discloses, wherein the registry of keywords comprises a database of keywords and associated macro commands (col. 8, lines 1-57).

Claims 14 and 18. Sakharov failed to disclose, wherein when identifying the new keyword in the macro language expression the parser is operable to: recognize one or more tokens in the macro language expression; and determine based on the predefined macro language that each token indicates the presence of a new macro command associated with the new keyword that is not included in the predefined macro language. Greenfield discloses, wherein when identifying the new keyword in the macro language expression the parser is operable to: recognize one or more tokens in the macro language expression; and determine based on the predefined macro language that

each token indicates the presence of a new macro command associated with the new keyword that is not included in the predefined macro language (col. 8, lines 1-38).

Response to Arguments

Applicant's arguments filed 03/16/09 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: The Examiner states that claims 1, 3, and 9 recite "a procedure not performed which is not found in the Specification and Applicants' respectfully traverse this rejection because Applicants' respectfully submit that the Specification provides sufficient information and detail to enable those skilled in the art to make and use the claimed invention and Applicants' Specification is replete with discussion of the need for an extensible macro language that allows a user to write "new" macro commands that include "procedures tailored to the specific needs of the users," in accordance with the embodiments of Applicants' invention has been considered but is not persuasive. Response: The Specification on pg. 4, lines 8-19 recites "macro language processors" and "macro language processor". The extensible macro language is enabled to process the new command ...". How can this process take place when there are not any "macro language processors" or a "macro language processor" mentioned in reference to the drawing figure 1 or shown in drawing figure 1 for performing the processing of the new macro commands? Therefore, the "new procedures" are not interpreted as being capable of being performed which means there were not any new procedures that were not performed by the original macro language.

Issue no. 2: Applicants' argue: The Examiner also rejects claims 9-21 because "claims 9-21 do not have any mention of "computer readable medium encoded with logic" found in Applicants' Specification to perform the steps of claims 9-21 and Applicants respectfully traverse the rejection of claims 9-21 because Applicants' Specification is replete with discussion of the electronic nature of certain embodiments of Applicants' invention; Applicants' Specification specifically relates to "computer language processors and particularly to an extensible macro language has been considered but is not persuasive. Response: Macros are written in programming languages. Where is the macro processor in the drawings? The parser has been identified but not the macro processor. How is the macro extended in order to make it an extensible macro language? It is understood that a keyword is added. How is the keyword added? What happens when the macro encounters a new keyword? If instead, of typing "pizza" the words "teddy bear" are typed. What happens? There is not any mention of a "computer readable medium encoded with logic for performing any of these functions. A macro by definition is a program of recorded keystrokes and application's command language that; when run within the application, executes the keystrokes and commands to accomplish a task. Macros can automate tedious and often repeated tasks, such as saving and backing up a file to a floppy, or can create special menus to speed data entry. There are two types of macros which are: compiled and interpreted. Perl is a scripting language which is considered to be an interpretive language. Perl is defined as and acronym for Practical Extension and Report Language. An interpreted scripting language that is specifically designed for scanning

text files, extracting information from these files, and preparing reports summarizing this information.

A computer readable medium is defined as a medium which may be or comprise an electronic solid state memory, random access memory, programmable memory, field programmable memory, a floppy disc, a flexible disc, hard disc, magnetic tape, or any suitable other magnetic medium known in the art, a CD-ROM, other suitable optical medium known in the art, a PROM, and EPROM, a FLASH-EPROM, any other suitable memory chip or cartridge known in the art, or any other suitable medium known in the art from which a computer can read machine executable instructions. The term "computer-readable medium" refers to any suitable medium known in the art that participates in providing instructions to the network for execution. Such a medium may take many forms, including but not limited to, non-volatile media and volatile media. Non-volatile media includes, for example, optical or magnetic discs, tapes and thumb drives. Volatile media includes dynamic memory.

The Examiner disagrees that the Applicants' Specification describes detail either implicitly or inherently the claim terms "computer readable medium encoded with logic" in such a manner that one skilled in the art would reasonably conclude that Applicants' has possession of the claimed invention for the reasons discussed above.

Issue no. 3: Applicants' argue: Applicants' respectfully submit that claims 1, 3, and 9 are not indefinite as previously and currently presented because for example claim 1 recites "maintaining a predefined macro language" and claim 1 further recites that a macro language expression is parsed to identify a new keyword "that is not within

the plurality of keywords in the predefined macro language" has been considered but is not persuasive. Response: The Examiner after a careful review of the Specification does not find "a predefined macro language" defined in such a manner as to reasonably determine what Applicants' mean by "a predefined macro language". How can it be predefined if it is extensible? What makes the macro language predefined?

Issue no. 4: Applicants' argue: Greenfield does not disclose, teach or suggest "using a parser to parse a macro language expression to identify a new keyword in the macro language expression that is not within the plurality of keywords in the predefined macro language as recited in claim 1 has been considered but is not persuasive. Response: Applicants' are arguing the amendment to claim 1. The parser is defined as a program that breaks large units of data into smaller, more easily interpreted pieces. Greenfield's parser is capable of performing this function. The function would be performed regardless of the type of parser used.

USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as

broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").

The Examiner respectfully disagrees that the claims particularly point out and distinctly claim the subject matter of the invention.

Resort can be had to case law as follows: "However, the written description is not a substitute for, nor can it be used to rewrite the chosen claim language. Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment. *Resonate Inc. v. Alteon Websystems, Inc.*, 67 USPQ2d 1771 (Fed. Cir. 2003).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

"We are not persuaded by any sound reason why, at any time before the patent is granted, an applicant should have limitations of the specification read into a claim where no express statement of the limitation is included in the claim ... However, this court has consistently taken the tack that claims yet unpatented are to be given the broadest

reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims, the thought being to reduce the possibility that, after the patent is granted, the claims may be interpreted as giving broader coverage than is justified." *In re Prater*, 162 USPQ 541 (CCPA 1969).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rose et al (US 5,790,861); Lau (US 6,182,274); Mark-Jason Dominus, "Perl: Not Just For Web Programming"; John K. Ousterhout, "Scripting: Higher-Level Programming for the 21st Century".

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

June 4, 2009